

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

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In the Matter of )

Applications of AT&T Inc. )

and )

Deutsche Telekom AG, )

For Consent to Assign or Transfer Control of )  
Licenses and Authorizations )

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WT Docket No. 11-65

**OPPOSITION TO MOTION FOR LIMITED DISCOVERY BY DIOGENES  
TELECOMMUNICATIONS PROJECT**

AT&T, Inc. and Deutsche Telekom AG (collectively, “Applicants”) hereby oppose the “Motion for Limited Discovery” (the “Motion”) filed by Diogenes Telecommunications Project (“DTP”) on August 4, 2011. That motion seeks very broad-ranging discovery, in the form of document production and depositions, from Applicants. The Commission should deny this motion for a number of reasons.

First, and most obviously, the motion is procedurally inappropriate and runs directly counter to long-established Commission practice. DTP cites no precedent for allowing private parties to take discovery at this stage of a merger proceeding, and applicants are aware of none. To the contrary, Rule 1.311(a) of the Commission’s rules, 47 C.F.R. § 1.311(a), makes clear that discovery is not appropriate unless a matter has been designated for hearing. No such designation, of course, has been made here. Moreover, for the reasons set forth in Applicants’ previous submissions, this transaction clearly serves the public interest and there is no need for a hearing. Accordingly, the Motion should be denied because it violates the Commission’s rules.

Second, any such discovery would cause significant and unjustified delay.

Notwithstanding the word “limited” in the title of DTP’s motion, there is nothing limited about its overbroad and incredibly burdensome requests, which span Applicants’ past and future plans for the provision of wireless services. Moreover, like virtually all large merger application proceedings, this proceeding involves numerous parties, many of whom would not only want to be involved in discovery by DTP but would also seek discovery of their own if this door is opened. The resulting expense and delay would be enormous and would be completely inconsistent with the Commission’s need to consider such applications expeditiously. The fact that there is no precedent for allowing such discovery in prior merger proceedings amply demonstrates the recognition by both the Commission and the industry that this kind of discovery is not appropriate.

Third, there is no need for the discovery DTP seeks. Applicants have made numerous submissions in support of the transaction, including voluminous document productions and other information in response to requests from the Commission. DTP is entitled, subject to the strictures of the protective orders in this matter, to review those materials. Since DTP already has access to these materials, there is no basis for requiring further productions.

In any event, DTP has not provided any factual basis for allowing such unprecedented discovery. The Motion simply restates the unfounded allegations in DTP’s petition to deny. For the reasons set forth in Applicants’ Joint Opposition to the various petitions and comments, there is no basis for DTP’s claims -- and there is certainly no reason to allow massive and procedurally improper discovery on those claims.<sup>1</sup>

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<sup>1</sup> See Joint Opposition of AT&T Inc., Deutsche Telekom AG, and T-Mobile USA, Inc. to Petitions to Deny and Reply to Comments (June 10, 2011) at 228 n. 480 and Sections I.A.1 and I.B.1.

## CONCLUSION

For the foregoing reasons, the Commission should deny DTP's motion for discovery.

Respectfully submitted,

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